

**REMARKS:**

**I. Overview**

The Office Action dated May 8, 2009 has been received and carefully considered. Claims 1 and 3-53 are pending in the present application. No claims have been amended or added.

Claims 1, 3-6, 14-19, 23, 27-32, 36, 40-42, 46, and 50-53 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent Publication No. 2004/0123162 to Antell et al. ("Antell") and U.S. Patent No. 5,842,195 to Peters et al. ("Peters"). In addition, claims 7-13, 20-22, 24-26, 33-35, 37-39, 43-45, and 47-49 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Antell and Peters in further view of U.S. Patent Publication No. 2003/0126049 to Nagan et al. ("Nagan"). Finally, the Examiner rejected claims 40-53 under 35 U.S.C. 101 as allegedly being directed to non-statutory subject matter. These rejections are respectfully traversed. Reconsideration in light of the following remarks is respectfully requested.

**II. Examiner Interview Summary**

On August 3, 2009, Bob Barrett, the Applicant's representative, and Matthew Gracie, the Applicant, conducted a Telephone Interview with Examiner Loftis. Mr. Barrett and Mr. Gracie appreciate the assistance provided by the Examiner during the Interview.

During the Interview, the participants discussed the second element of claim 1, which states: "determining from the overall question set a basic question set asked of all users, wherein each question of the basic question set is associated with an expected answer and wherein the basic question set comprises the minimum number of sequenced questions the answers to which would be sufficient to meet the regulatory criteria if no unexpected answers are given . . . ." As

explained by Mr. Barrett and Mr. Gracie during the Interview, Antell does not describe a basic question set asked of all users where each question is associated with an expected answer; rather, Antell describes a method where there are multiple possible question sets and the questions asked may differ based on the responses to the previous questions. Antell, ¶ [0007]. The authentication questions asked in Antell are dynamic since the information is based on each user's unique identifying data. Furthermore, since the question set changes for each user in Antell, the answers user's provide to identify themselves and gain authentication onto a network also are dynamic. *Id.* at [0007]-[0010].

As discussed during the Interview, Antell discloses: (1) asking fill-in-the-blank primary questions first; then (2) analyzing the answers to these primary questions and asking a fixed number of supplemental fill-in-the-blank questions; then (3) the answers to the supplemental fill-in-the-blank questions are analyzed and a fixed number of tertiary fill-in-the-blank questions are asked based on the answers to the supplemental questions, and so on. Antell, ¶¶ [0007]-[0010]. The Application, on the other hand, asks questions from the basic question set and only asks supplemental questions upon a determination that the received answer is not the expected answer. The supplemental additional questions are asked based on predetermined sequenced criteria. The user returns to the sequence of the basic question set once the user provides the expected answer to the supplemental additional questions.

The Examiner agreed with Mr. Barrett and Mr. Gracie that neither Antell nor Peters disclosed the elements of claim 1. The Examiner indicated she would speak with her Supervisor about the Application and call Mr. Barrett to discuss possible claim amendments that would put the Application in better condition for allowance.

In a follow-up call on August 7, 2009, Mr. Barrett and the Examiner discussed the Application and the Examiner's conversation with her Supervisor. As related by the Examiner, the Supervisor proposed some new search terms for use in another search. The Supervisor did not recommend any amendments to the claims. The Examiner promised to send Mr. Barrett an Interview Summary detailing the conversation, and confirmed that she would conduct another search and not go Final with the next Office Action if the Applicant did not amend the claims.

### **III. Rejections Under 35 U.S.C. § 103(A) To Antell, Peters, And Nagan**

Claims 1 and 3-53 have been rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Antell, Peters, and Nagan. This rejection is respectfully traversed.

#### **A. Independent Claim 1**

Independent claim 1 recites the steps of determining from the overall question set a basic question set asked of all users, wherein each question of the basic question set is associated with an expected answer and wherein the basic question set comprises the minimum number of sequenced questions the answers to which would be sufficient to meet the regulatory criteria if no unexpected answers are given, providing predetermined sequenced criteria for supplementing the basic question set with supplemental additional questions from the overall question set within the sequence of the basic question set, wherein the criteria are structured to minimize the number of remaining questions that must be answered in order to comply with the regulatory criteria, and conducting an optimized interactive customer survey, comprising a series of steps implemented by a computer comprising at least a computer processor.

#### **B. Neither Antell Nor Peters Disclose the Elements of Claim 1**

Applicant respectfully submits that Antell and Peters do not disclose, teach, or suggest the recited elements of claim 1. Specifically, Antell and Peters do not disclose, teach, or suggest

determining from the overall question set a basic question set asked of all users, wherein each question of the basic question set is associated with an expected answer and wherein the basic question set comprises the minimum number of sequenced questions the answers to which would be sufficient to meet the regulatory criteria if no unexpected answers are given.

As discussed during the Examiner Interview, Antell does not disclose a basic question set asked of all users. Antell discloses that “each question set can have at least two different questions taken from the listing of available questions.” Antell, ¶ [0007]. Furthermore, Antell does not disclose a basic question set where each question is associated with an expected answer. Because the data used to develop the question sets in Antell is “based on information received from a data source(s) that can include personal and/or corporate/business data”, the user’s data will determine the correct answers. In other words, there is no basic question set asked of all users where each question of the basic question set is associated with an expected answer disclosed in Antell.

The Examiner stated during the Interview that Peters does not disclose a basic question set asked of all users where each question is associated with an expected answer. The Applicant agrees with the Examiner.

Therefore, the Applicant respectfully submits that neither Antell nor Peters discloses, teaches, or suggest determining from the overall question set a basic question set asked of all users, wherein each question of the basic question set is associated with an expected answer and wherein the basic question set comprises the minimum number of sequenced questions the answers to which would be sufficient to meet the regulatory criteria if no unexpected answers are given. For at least this reason, the Applicant submits that claim 1 is patentable over Antell and

Peters. Accordingly, the Applicant requests that the Examiner withdraw the rejections under 35 U.S.C. § 103(a).

C. Nagan Does Not Render the Application Unpatentable

Claims 7-13, 20-22, 24-26, 33-35, 37-39, 43-45, and 47-49 were rejected under 35 U.S.C. 103(a) as being unpatentable over Antell, Peters, and Nagan. Applicant respectfully traverses this rejection.

Nagan does not disclose the elements of claim 1, and specifically does not disclose the element of determining from the overall question set a basic question set asked of all users, where each question of the basic question set is associated with an expected answer and wherein the basic question set comprises the minimum number of sequenced questions the answers to which would be sufficient to meet the regulatory criteria if no unexpected answers are given. Nagan discloses a method for identifying and assessing risks arising from Internet and related data processing activities, as well as other risks for which historical risk assessment methodologies are not available. Nagan, ¶¶ [0002], [0016]. As the Examiner states in the Office Action: "Nagan [] discloses anticipated answers have predetermined risk contribution factor values. Total risk factors are calculated by adding the risk contribution factor values of each response submitted by the customer (paragraphs 46-47, 65-66)." Office Action, p. 10. Nagan's questions, therefore, do not have expected answers, but instead have a limited set of potential answers that are used to determine an overall risk assessment:

Preferably, all the questions are drafted to yield one of a limited set of potential answers, each of which is handled by the risk assessment procedure. Thus, preferably all questions will prompt for an answer of one of "yes," "no," "don't know," or "not applicable," or will yield a numeric answer that is required to be within a given valid range. These answers provide answers or, in some cases, a numeric answer or range. The questions and their answers should be relatively objective, but it is also possible to

employ the judgment of the answerer to rate his or her belief over a scale as a means to statistically distinguish one group of answerers from another (for example to assess the user's confidence in their answers).

Nagan, ¶ [0037].

Therefore, Nagan does not disclose the elements of claim 1, and specifically does not disclose a basic question set asked of all users where each question is associated with an expected answer. Since Nagan does not disclose the elements of claim 1, it does not cure the deficiencies of Antell and Peters. For at least this reason, claim 1 is patentable over Antell, Peters, and Nagan. Accordingly, Applicant respectfully requests that the rejection of claims 7-13, 20-22, 24-26, 33-35, 37-39, 43-45, and 47-49 under 35 U.S.C. § 103(a) be withdrawn.

D. Claims 3-15

Claims 3-15 depend on independent claim 1 and must be patentable over the stated references for at least the same reasons as claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 3-15 under 35 U.S.C. § 103(a) be withdrawn.

E. Independent Claim 16

Independent claim 16 recites the steps of displaying at least one question asked of all users having an associated single expected answer selected from an overall question set comprising all possible questions for which answers may be required in order to comply with the regulatory criteria, wherein the at least one question comprises the minimum number of sequenced questions the answers to which would be sufficient to meet the regulatory criteria if no unexpected answers are given.

The Examiner rejected claim 16 on the same basis as claims 1 and 3-15. The remarks and arguments with respect to claim 1 above are equally applicable to claim 16, and are herein

incorporated. Accordingly, Applicant respectfully request that the rejection of claim 16 under 35 U.S.C. § 103(a) be withdrawn.

F. Claims 17-28

Claims 17-28 depend on independent claim 16 and must be patentable over the stated references for at least the same reasons as claim 16. Accordingly, Applicant respectfully requests that the rejection of claims 17-28 under 35 U.S.C. § 103(a) be withdrawn.

G. Independent Claim 29

Independent claim 29 recites the steps of displaying at least one question asked of all users and having an associated single expected answer selected from an optimum subset of an overall question pool comprising all possible questions for which answers may be required in order to comply with the regulatory criteria, the optimum subset including only an optimized set of sequenced questions, wherein the optimized set of sequenced questions comprises the minimum number of questions the answers to which would be sufficient to meet the regulatory criteria if no unexpected answers are received.

The Examiner rejected claim 29 on the same basis as claims 1 and 3-15. The remarks and arguments with respect to claim 1 above are equally applicable to claim 29, and are herein incorporated. Accordingly, Applicant respectfully requests that the rejection of claim 29 under 35 U.S.C. § 103(a) be withdrawn.

H. Claims 30-39

Claims 30-39 depend on independent claim 29 and must be patentable over the stated references for at least the same reasons as claim 29. Accordingly, Applicant respectfully requests that the rejection of claims 30-39 under 35 U.S.C. § 103(a) be withdrawn.

I. Independent Claim 40

Independent claim 40 recites a question optimization module adapted for structuring a sequenced optimized question set having at least one question asked of all users that is selectively displayable to the user and wherein the question optimization module is adapted to supplement the sequenced optimized question set with additional questions from an overall question set after receiving answers from the user that differ from the expected answer to comprise the minimum number of remaining questions that must be answered in order to comply with the regulatory criteria.

The Examiner rejected claim 40 on the same basis as claims 1 and 3-15. The remarks and arguments with respect to claim 1 above are equally applicable to claim 40, and are herein incorporated. Accordingly, Applicant respectfully requests that the rejection of claim 40 under 35 U.S.C. § 103(a) be withdrawn.

J. Claims 41-49

Claims 41-49 depend on independent claim 40 and must be patentable over the stated references for at least the same reasons as claim 40. Accordingly, Applicant respectfully requests that the rejection of claims 41-49 under 35 U.S.C. § 103(a) be withdrawn.

K. Independent Claim 50

Independent claim 50 recites displaying at least one question asked of all users and having an associated single expected answer, wherein the at least one question comprises the minimum number of sequenced questions the answers to which would be sufficient to meet the regulatory criteria if no unexpected answers are given.

The Examiner rejected claim 50 on the same basis as claims 1 and 3-15. The remarks and arguments with respect to claim 1 above are equally applicable to claim 50, and are herein



incorporated. Accordingly, Applicant respectfully requests that the rejection of claim 50 under 35 U.S.C. § 103(a) be withdrawn.

L. Claims 51-53

Claims 51-53 depend on independent claim 50 and must be patentable over the stated references for at least the same reasons as claim 50. Accordingly, Applicant respectfully requests that the rejection of claims 51-53 under 35 U.S.C. § 103(a) be withdrawn.

**IV. The Claimed Invention Is Directed To Statutory Subject Matter**

A. Rejection of Claims 40-53 Under 35 U.S.C. 101

On page 3 of the Office Action, the Examiner rejected Claims 40-53 as being allegedly directed to non-statutory subject-matter. The Applicant respectfully traverses this rejection.

Independent claims 40 and 50 contain appropriate subject matter under 35 U.S.C. § 101 because each recites a process as defined by 35 U.S.C. § 100(b). *See* M.P.E.P. § 2106 (IV)(B) (8th ed. rev'd July 2008). Furthermore, independent claims 40 and 50 are not abstract ideas, natural phenomena, or laws of nature covered by any of the judicial exceptions under 35 U.S.C. 101 because the claims are tied to a particular apparatus, i.e., a computer comprising at least a computer processor.

As required by *In re Bilski*, No. 2006-1130 (Fed. Cir. Oct. 30, 2008) (*en banc*), a patent claim must be tied to a particular machine or apparatus, or the claims must transform a particular article into a different state or thing. Here, claims 40 and 50 require machine implementation, i.e., the steps are implemented by a computer comprising at least a computer processor. Thus, claims 40 and 50 are patent eligible subject matter under 35 U.S.C. 101. The Applicant respectfully requests that the rejection of claims 40 and 50 under 35 U.S.C. § 101 be withdrawn.

B. Dependent Claims 41-49 and 51-53

Claims 41-49 and 51-53 depend on claims 40 and 50 respectively, which have patent eligible subject matter as shown above. The Applicant submits that by virtue of their dependency on claims 40 and 50, claims 41-49 and 51-53 are also patent eligible subject matter. The Applicant therefore respectfully requests that the rejection of claims 41-49 and 51-53 under 35 U.S.C. § 101 be withdrawn.

#### **V. CONCLUSION**

For at least the reasons set forth above, the Applicant respectfully submits that claims 1 and 3-53 are in condition for allowance. The Applicant therefore requests that the Application be allowed and passed to issue.

Should the Examiner believe anything further is desirable in order to place the Application in even better condition for allowance, please contact the Applicant's undersigned representatives.

Respectfully submitted,



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